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**CITY OF GAITHERSBURG  
MINUTES OF THE OCTOBER 9, 2006  
HISTORIC DISTRICT COMMISSION MEETING**

A meeting of the Historic District Commission was called to order at 8:09 p.m., Chair Katz presiding. Commissioners present: Alster, Marraffa, Schlichting and Sesma. Commissioner Absent: Edens. Staff present: City Manager Humpton, Planner Patula, City Attorney Borten and Executive Assistant Stokes.

**PUBLIC HEARING**

**HAWP-37E - Applicant Stephen Orens for Hamza Halici/Halici, Inc., Request for Demolition of the Historic Talbott House (Hair Bar) at 309 North Frederick Avenue**

Planner Patula stated that the above public hearing was advertised in the *Gaithersburg Gazette* on September 27, 2006. At the present time, there are 64 exhibits in the record file. Since the late 1980's, the City has worked with Mr. Halici to develop said property. The applicant is requesting to demolish the above house which was designated a local historic site on June 5, 1989 (HD-17) at the applicant's request. She added that the applicant did receive tax credits for the above historically designated house. Planner Patula stated that the applicant has claimed that the retention of the structure is causing a substantial economic hardship. In 2003, after years of effort on the part of both the City and the applicant, the Historic District Commission (HDC) granted approval of HAWP-37C for demolition which expired in June 2006. This public hearing is a new application of the same request. The HDC reviewed the Historic Preservation Advisory Committee's (HPAC) record at their September 5, 2006 policy discussion. The HPAC unanimously voted to recommend denial based on the finding that the applicant did not meet his burden of proof for economic hardship. During the September 5, 2006 meeting, Planner Patula stated the HDC had the option of holding its record open to receive additional information from the applicant and public, or decide to approve or deny the historic area work permit request.

*Rebecca Willens, Miles & Stockbridge*, representing the applicant, briefly summarized the record for the HDC. She stated that over the past several years, the applicant brought forth plans for the property that would integrate the existing structure in with a new development plan which included restaurant, retail, and office uses, but because of the expense of integrating, the necessity of bringing the structure up to current City Code standards, and the lack of adequate storage for reuse, none came to fruition. She referred to a 2002 memorandum prepared by Senior Plans Examiner Lee describing the various Code standards applicable to adaptive reuses of the building. Ms. Willens reviewed the cost to renovate the defects in the structure and stated that the experts retained by the applicant estimated that the improvements to facilitate office or retail use would exceed \$97,000. The cost for renovating the structure for expansion and commercial or change in use ranged from \$150,000 to \$550,000. Ms. Willens stated that the applicant has taken the position that it is not reasonable to require the applicant to spend upwards of \$250,000 minimum without the guarantee of a return. She further stated that the value of the property with the current structure is \$630,000, and to bring the structure up to City Code for suitable use other than its current use, far exceeds the value it can bring to the property owner. She further stated that from September 2005 until February 2006, there were substantial efforts made to market the property and the condition of the structure is key in the failure to find a tenant or buyer. She reminded the HDC that the City Code does not permit more than one extension of a historic area work permit. Ms. Willens asked that if the demolition permit is granted, that a two-year initial period be given for the approval of the permit and to allow the applicant time to work with consultants. She submitted a petition for the record in support of the demolition.

*Stephen Orens, Miles & Stockbridge*, addressed a question regarding the applicant's initial request for a conditional historic designation of the property to find an adaptive reuse. He stated that when the application was made, it was conditioned on the ability to develop the property for commercial use. Mr. Orens stated that at that time, former City Attorney Abrams advised the Commission that they could not designate a site conditionally. The owner decided to proceed with the historic designation. In support of his client's application, Mr. Orens referred to the evidence in the record and asserted that, under the City's Code, the Broadview Apartments case, and Maryland law, restorations would place an undue and inappropriate burden on the owner. Based on the evidence submitted, Mr. Orens asked the HDC to approve the demolition and allow the applicant to come back with a plan under the zoning of the Master Plan.

*Peter Moholt, 19636 Gallatin Court, Montgomery Village*, stated he appraised the property and structure in May 9, 2006 and determined that the highest and best use was to demolish the building because of the net return on the land over a period of time. He stated that the existing building depreciates the value of the land as demonstrated in his report. He estimated the value of the property if vacant would be \$37.50 per square foot or \$900,000. He also estimated the value of the improvements to be \$630,000. He stated that the estimate was based on comparable sales at that time and that the land value would be higher today.

*Brian Sheehan, Real Estate Broker, GMC Associates*, assisted with marketing the property for the past year. He stated several financial institutions, primarily banks, questioned whether the existing structure could be demolished for other uses. Following submittal of letters of intent, those interested opted out. In response to questions regarding the rental rate for the building, Mr. Sheehan stated that there are not many rental uses for the existing structure; however, if rented, the maximum rent would be \$20 - \$30 per square feet for the 900 square feet of usable structure and half-acre parcel.

Speakers from the public were:

1. *Elizabeth Johnson, 104 Chestnut Street, representing Montgomery Preservation, Inc.*, summarized the email sent to the HDC where they opposed approval of the demolition and questioned relying on outdated information from previous years and urged the HDC to review the new record submitted. Mrs. Johnson strongly expressed support for the findings of the HPAC.
2. *Cathy Drzyzgula, 16 Walker Avenue, Vice Chair of the HPAC*, summarized HPAC's recommendation. She referred to Article 24-228.2 and the three circumstances under which an historic structure may be demolished. She stated that the applicant is running a profitable business and reasonable uses have been found. She further stated that the HPAC found no evidence submitted by the applicant to support the claim of economic hardship.
3. *Richard Arkin, 121 Selby Street*, stated that the applicant submitted an analysis that was defective. He stated that the property was zoned commercial at the time of purchase and the applicant himself, submitted the application for historic designation. He further stated that the applicant has benefited from tax credits and urged the HDC to deny demolition.
4. *Peter Winant, 18 Montgomery Avenue*, expressed concern that the argument has been about money and questioned what benefits would be given to the community if the demolition is granted for the historic designated structure.
5. *Warren Johnson, 104 Chestnut Street*, stated that similar properties have been successful. He stated that based on what the applicant has submitted for evidence, it does not demonstrate financial hardship.
6. *Bernie LaFrance, 105 Chestnut Street*, expressed opposition for demolition of the historic designated structure and the financial hardship claims submitted.
7. *Bob Drzyzgula, 16 Walker Avenue*, asked the HDC to deny the demolition application and expressed support for the HPAC's findings for the second time. He stated that the applicant has not submitted evidence to support the financial hardship. He referred to successful renovations of other historic structures in the community. He reiterated and asked that the HDC to consider the benefits the applicant has received from past tax credits and what he could receive from future credits, if the structure is renovated.

There were no other speakers from the public.

Staff recommended holding the HDC record open for ten (10) days. City Attorney Borten questioned if the applicant was in agreement that the HDC was still operating under the initial consent to an extension of the 45 day period. Mr. Orens agreed, but asked that the applicant have an opportunity to respond to all documents submitted into the record. The Commission reminded Mr. Orens that the City does have a procedure in place for submitting documents into the record which applies to everyone.

Motion was made by Historic District Commissioner Alster, seconded by Commissioner Sesma, that the Historic District Commission record on HAWP-37E, remain open for thirty (30) days

Vote: 5-0

### **ADJOURNMENT**

There being no further business to come before the Historic District Commission, the meeting was duly adjourned at 9:06 p.m.

*Respectfully submitted,*

*Doris R. Stokes*

Executive Assistant